

### REMARKS

Claims 1-14 were previously cancelled. Claims 15-29 were previously presented. Claims 15-29 are pending and under active consideration. No amendments have been made.

The office rejected claims 15-22, 24 and 26-29 under 35 U.S.C. § 103(a) over Bret (US 6,146,643). The office rejected claims 23-25 under 35 U.S.C. § 103(a) over Bret and Wegele (US 6,270,878). The office rejected claim 25 under 35 U.S.C. § 103(a) over Bret and Muoio (US 3,965,518). Applicants submit the claimed product would not have been rendered unpatentable over the cited references because the cited references do not teach or suggest all the limitations of the claimed composition and because the references teach away from the claimed composition.

The claimed product relates to a fibrous material that imparts a sense of freshness where the product contains, in part, at least one fatty acid ester with a C10-C14 carbon chain and a alcohol with a C10-C14 carbon chain. Applicants submit that the references do not teach or suggest this limitation, and indeed, teach away from the composition.

Bret describes a softening lotion composition for use in an absorbent paper product. The purpose is to provide a softening effect on products such as tissue paper. In contrast, the goal of the claimed product is to provide a sense of freshness.

Bret utilizes, in part, C16+ fatty alcohols and C24+ waxy esters in the softening formulation. These ranges are well outside the C10-C14 carbon chain for the claimed product. Accordingly, Bret does not teach or suggest all the limitations of the claimed composition.

On page 3 of the office action, the office states

“Regarding the fatty acid ester of claim 15 in the instant application, claim 4 of ‘648 patent states that the composition comprises one or more fatty alcohols which have 6 to 24 carbon atoms. Claim 4 further states a waxy ester of 6 to 24 carbon atoms.” (emphasis added)

Applicants respectfully disagree with regard to the waxy ester conclusion. Claim 4 of Bret states that

“4. Composition as claimed in claim 3, wherein the at least one waxy ester of (ii) is synthetic and derived from saturated linear fatty acids having 6 to 24 carbon atoms and from

saturated linear fatty alcohols having 6 to 24 carbon atoms.”

(emphasis added)

Claim 4 of Bret relates to the at least one waxy ester having C24+ carbon atoms and how it is synthesized from an alcohol (C6-C24) and an acid (C6-C24). Accordingly, Bret does not teach or suggest a C10-C14 alcohol or C10-C14 fatty acid ester in the disclosed formulation.

Applicants submit that Bret actually teaches away from the claimed product. Claim 4 demonstrates that Bret had C6-C24 alcohols available but yet did not choose to use them in their composition for a softening lotion despite this availability. Instead, Bret chose C16+ linear fatty alcohols for their formulation. This is clearly a teaching away from the use of C10-C14 alcohols. Applicants note that the courts have found that such a teaching away is indicative of non-obviousness (see MPEP §§ 2143.02 and 2145).

Because Bret does not teach or suggest all the limitations of the claimed product and because Bret teaches away from the claimed product, applicants submit the claimed product would not have been obvious over Bret. Accordingly, applicants respectfully request that the office withdraw the rejection of the claims 15-22, 24 and 26-29 under 35 U.S.C. § 103(a) over Bret.

Finally, applicants submit that Wegele directed to wipes and Muoio directed to impregnated wipes do not make up for the deficiencies of Bret as noted above. Accordingly, applicant respectfully request that the office withdraw the rejection of claims 23-25 under 35 U.S.C. § 103(a) over Bret and Wegele and the rejection of claim 25 under 35 U.S.C. § 103(a) over Bret and Muoio.

In light of the remarks above, applicants submit the application is in condition for allowance. Favorable reconsideration is respectfully requested.

If there are any charges due with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130 maintained by Applicants' attorneys.

Respectfully submitted,

CANTOR COLBURN, LLP

By: /Donald K. Drummond/  
Donald K. Drummond  
Registration No.: 52,834

Date: May 12, 2009  
Cantor Colburn LLP  
1800 Diagonal Road  
Suite 510  
Alexandria, VA 22314  
Telephone: (703) 236-4500  
Facsimile: (703) 236-4501